

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LISA COOLEY, LLC

Plaintiff,

No. 20-cv 5800 (VEC)

V.

THE NATIVE SA

Defendant.

DECLARATION OF SERGE UMANSKY IN OPPOSITION
TO ORDER TO SHOW CAUSE SEEKING ENTRY OF A DEFAULT JUDGMENT

I, Serge Umansky, declare and state under 28 U.S.C. § 1746 as follows:

1. I submit this declaration in opposition to the application filed by the plaintiff, Lisa Cooley, LLC (“Plaintiff”), seeking a default judgment against the defendant, The Native, S.A. I submit this declaration based on my own personal knowledge and subject to the special appearance being made by The Native to contest service of process and jurisdiction.

2. From July 2017 until June 2018, I was the Vice-Chairman of the board of The Native, S.A. During my time as Vice-Chairman, I considered various company matters, including whether to enter into contracts.

3. For something as significant as a guarantee by the company, I would normally have been consulted. Furthermore, the board would normally be required to authorize such a contract. In accordance with the Swiss Commercial Registry and Swiss law, for any contract, including a guarantee, to be enforceable against the company it would have to be signed by two authorized representatives. None of that happened with the guarantee that is at issue in this lawsuit.

4. I have recently been informed by counsel for The Native that, in March 2018, Sergey Skatershchikov allegedly signed a guarantee in the name of The Native. As I understand it, that guarantee related to the payment obligations of P8H, Inc., d/b/a Paddle 8 under a sublease for the building located at 107 Norfolk Street in Manhattan (the “Guarantee”).

5. The Guarantee was never presented to the board for its consideration. The Guarantee was never discussed or described to the board.

6. The board never had the opportunity to approve the Guarantee and did not approve it.

7. I have never seen the Guarantee prior to today.

8. Mr. Skatershchikov did not ask for the company’s authority to enter into the Guarantee.

9. The Guarantee was not signed by two authorized agents of The Native, as required to bind The Native.

10. For all the above reasons, the Guarantee does not bind The Native.

11. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 5th day of November 2020 in London, England.



Serge Umansky